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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed
as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on 28th April, 1992 :—

BILL No. 79 OF 1992

A Bill further to amend the Army Act, 1950.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

- | | | |
|-------------|--|---------------------------------|
| 46 of 1950. | 1. This Act may be called the Army (Amendment) Act, 1992. | Short title. |
| | 2. In the Army Act, 1950 (hereinafter referred to as the principal Act) sections 75 and 76 shall be omitted. | Omission of sections 75 and 76. |
| | 3. In section 77 of the principal Act, the words "field punishment" shall be omitted. | Amendment of section 77. |
| | 4. In section 80 of the principal Act, clause (j) shall be omitted. | Amendment of section 80. |
| | 5. In section 81 of the principal Act,— | Amendment of section 81. |
| | (i) sub-section (1) shall be omitted; | |

(ii) in sub-section (4), for the brackets, letters and word "(a), (b), (c) and (j)", the brackets, letters and word "(a), (b), and (c)" shall be substituted.

Amendment of section 85.

6. In section 85 of the principal Act, for the portion beginning with the words "and award the punishment" and ending with the words "of which he is convicted is made good", the following shall be substituted, namely:—

"and award one or more of the following punishments that is to say,—

(i) severe reprimand or reprimand;

(ii) stoppage of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good:

Provided that the punishment specified in clause (i) shall not be awarded if the commanding officer or such other officer is below the rank of Colonel".

Amendment of section 90.

7. In section 90 of the principal Act,—

(i) in clause (e), the words and figures "or an officer exercising authority under section 85" shall be omitted;

(ii) in clause (i), after the words "Central Government", the words "or any prescribed officer" shall be inserted.

Amendment of section 91.

8. In section 91 of the principal Act,—

(i) in clause (a), the words "or of field punishment awarded by a court-martial or such officer" shall be omitted;

(ii) in clause (b), the words "or field punishment" shall be omitted.

Amendment of section 122.

9. In section 122 of the principal Act, in sub-section (1), for the words "from the date of such offence", the following shall be substituted, namely:—

"and such period shall commence,—

(a) on the date of the offence; or

(b) where the commission of the offence was not known to the person aggrieved by the offence or to the authority competent to initiate action, the first day on which such offence comes to the knowledge of such person or authority, whichever is earlier; or

(c) where it is not known by whom the offence was committed, the first day on which the identity of the offender is known to the person aggrieved by the offence or to the authority competent to initiate action, whichever is earlier".

10. In section 123 of the principal Act, in sub-section (2), for the words "within six months after he had ceased to be subject to this Act", the following shall be substituted, namely:—

Amend-
ment of
section
123.

"within a period of three years after he had ceased to be subject to this Act; and in computing such period, the time during which such person has avoided arrest by absconding or concealing himself or, where the institution of the proceeding in respect of the offence has been stayed by an injunction or order, the period of the continuance of the injunction or order, the day on which it was issued or made, and the day on which it was withdrawn, shall be excluded."

11. Section 127 of the principal Act shall be omitted.

Omis-
sion of
section
127.

12. In section 135 of the principal Act, in sub-section (1), after the word "court-martial", the words "or courts of inquiry" shall be inserted.

Amend-
ment of
section
135.

13. In section 137 of the principal Act,—

Amend-
ment of
section
137.

5 of 1898.
2 of 1974.

(a) in sub-section (3), for the words and figures "Code of Criminal Procedure 1898", the words and figures "Code of Criminal Procedure, 1973" shall be substituted;

5 of 1898.
2 of 1974.

(b) in sub-section (4), for the words and figures "Chapter XL of the Code of Criminal Procedure, 1898", the words and figures "Chapter XXII of the Code of Criminal Procedure, 1973" shall be substituted.

5 of 1898.
2 of 1974.

14. In sections 139, 151 and 174 of the principal Act, for the words and figures "Code of Criminal Procedure, 1898" wherever they occur, the words and figures "Code of Criminal Procedure, 1973", shall be substituted.

Amend-
ment of
sections
139, 151
and 174.

15. In section 142 of the principal Act, in sub-section (7), after the words "Assistant Chemical Examiner to Government", the words "or any of the Government scientific experts, namely, the Chief Inspector of the Explosives; the Director of the Finger Print Bureau; the Director, Haffkine Institute, Bombay; the Director of a Central Forensic Science Laboratory or a State Forensic Science Laboratory and the Serologist to the Government" shall be inserted.

Amend-
ment of
section
142.

5 of 1898.
2 of 1974.

16. In section 152 of the principal Act, for the words and figures "sections 480 and 482 of the Code of Criminal Procedure, 1898", the words and figures "sections 345 and 346 of the Code of Criminal Procedure, 1973" shall be substituted.

Amend-
ment of
section
152.

Insertion
of new
section
169A.

17. After section 169 of the principal Act, the following section shall be inserted, namely:—

Period of
custody
under-
gone by
the
officer
or
person
to be set
off
against
the im-
prison-
ment.

“169A. When a person or officer subject to this Act is sentenced by a court-martial to a term of imprisonment, not being an imprisonment in default of payment of fine, the period spent by him in civil or military custody during investigation, inquiry or trial of the same case, and before the date of order of such sentence, shall be set off against the term of imprisonment imposed upon him, and the liability of such person or officer to undergo imprisonment on such order of sentence, shall be restricted to the remainder, if any, of the term of imprisonment imposed upon him.”.

Amend-
ment of
section
191.

18. In section 191 of the principal Act, in sub-section (2), clause (c) shall be omitted.

Omission
of Chap-
ter XVI.

19. Chapter XVI of the principal Act and the heading relating thereto shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The Army Act 1950 came into force on 22-7-1950. This Act was essentially on the lines of the Army Act 1911, incorporating additional provisions to bring it in conformity with the Constitution of India. Till date, no major amendments have been made to the Army Act, 1950. Thus, the basic structure of the Act has remained as it was in 1950.

2. In the changed circumstances, the Army Act 1950 is proposed to be amended with a view to removing certain archaic and obsolete provisions, incorporating certain provisions to bring the Act in conformity with the Code of Criminal Procedure, 1973 in certain aspects and providing flexibility.

3. Accordingly, the Bill seeks to provide, inter-alia, the following amendments in the Act namely:—

(a) field punishment, which is in the nature of personal restraint and hard labour and which is clearly an archaic punitive system, is intended to be abolished;

(b) the provision regarding second trial of a person by a criminal court after conviction or acquittal by a court-martial is sought to be omitted;

(c) power to give reprimand and severe reprimand is proposed to be conferred on commanding officers for dealing with minor offences expeditiously;

(d) provisions similar to those as existing in the Code of Criminal Procedure, 1973 relating to the commencement of the period of limitation for trial are sought to be incorporated in the Act;

(e) provision allowing the period of detention undergone by an accused person before conviction to be set off against the sentence of imprisonment is sought to be made;

(f) provision enabling the authorities to use reports of certain Government scientific experts as evidence in any proceeding under the Act, as provided in the Code of Criminal Procedure, 1973, is also proposed to be incorporated;

(g) under the existing provisions of the Act, a trial can commence within six months after the offender has ceased to be subject to the Act. It has been noticed that in some cases offenders evade trial due to this short period of limitation. It is therefore, proposed to enhance this period to three years and in computing the period, the period of any stay granted by a court is sought to be excluded;

(h) power to a Court of Inquiry to issue summons requiring the attendance of any person to give evidence or to produce any document is sought to be given;

(i) certain formal and consequential amendments are also sought to be made in the Act.

4. The Bill seeks to achieve the aforesaid objects.

NEW DELHI;
The 10th April, 1992.

S. KRISHNA KUMAR.

C. K. JAIN,
Secretary-General.